

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

LYNN A. BRENNEMAN,

Petitioner,

v.

WARDEN S. SALMONSON,

Respondent.

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Civil Action No. 5:22-CV-7-RWS-JBB

ORDER

Petitioner Lynn A. Brenneman, an inmate confined at the Federal Correctional Institution in Texarkana, Texas, proceeding *pro se*, brought this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. Docket No. 1. Brenneman filed a motion for summary judgment seeking that the Court order the “Federal Bureau of Prisons to apply good time credits towards early release earned for qualifying programs under the First Step Act.” Docket No. 6.

The Court referred this matter to United States Magistrate Judge J. Boone Baxter, at Texarkana, Texas, for consideration pursuant to applicable laws and orders of this Court. In his report and recommendation, the Magistrate Judge recommends denying petitioner’s motion for summary judgment (Docket No. 6). Docket No. 9. Petitioner filed objections to the Magistrate Judge’s report and recommendation. Docket No. 11. Thus, the Court must conduct a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

The Court has received and considered the report and recommendation of the Magistrate Judge, along with the pleadings, record and all available evidence. After careful consideration, the Court concludes petitioner's objections should be overruled.

Petitioner's motion was based on Respondent's alleged failure to respond to the Court's order to show cause. Docket No. 6. Therefore, the Magistrate Judge interpreted the motion as a motion for default judgment. Docket No. 9. As set forth in the Magistrate Judge's report, Petitioner's motion was filed after the respondent's response to the court's order to show cause was filed. *Id.* Therefore, petitioner's motion for default judgment should be denied.

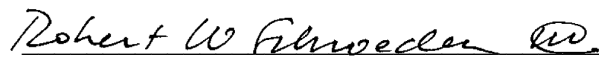
Respondent filed a response to Petitioner's objections in which he asserts that, while he did file a response to the petition with the court, a copy of the response was "inadvertently not served to Petitioner." Docket No. 12. Respondent asserted that he has now sent a copy of the response to petitioner and, therefore, requests that petitioner be provided an opportunity to review and respond to his response. *Id.* Accordingly, Petitioner's objections (Docket No. 11) are

OVERRULED. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED.** It is further

ORDERED that Petitioner's motion for summary judgment (Docket No. 6) is **DENIED.** It is further

ORDERED that Petitioner is **GRANTED** an additional twenty days from the date of this order to respond to the Respondent's response (Docket No. 12) on the merits.

So ORDERED and SIGNED this 16th day of March, 2023.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE